



WISCONSIN LEGISLATIVE COUNCIL

AMENDMENT MEMO

2001 Senate Bill 96	Senate Substitute Amendment 1 and Senate Amendment 1 Thereto
Memo published: November 8, 2001 Contact: Richard Sweet, Senior Staff Attorney (266-2982)	

Current Law

Current, ch. 457, Stats., governs marriage and family therapists, professional counselors, and four levels of social workers. Current law provides for certification of social workers, advanced practice social workers, independent social workers, independent clinical social workers, marriage and family therapists, and professional counselors. Current law prohibits persons from using certain titles unless they are certified under ch. 457, Stats.

Regulation of these professions is undertaken by the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors, which is divided into three sections--the Social Worker Section, the Marriage and Family Therapist Section, and the Professional Counselor Section. In addition, current law allows disciplinary actions to be taken by the examining board, provides for injunctive relief, and provides forfeitures, fines, and imprisonment for violators of ch. 457, Stats., or a rule promulgated under that statute.

Senate Bill 96

Senate Bill 96 takes effect on the first day of the 6th month after its publication. The bill includes the following major provisions:

1. The bill changes the name of the examining board to the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board. In addition, the bill changes the title of "independent clinical social worker" to "clinical social worker." The bill also creates a definition of "clinical social work."

2. The bill provides for licensure, rather than certification, of clinical social workers, marriage and family therapists, and professional counselors. In addition to the current restrictions on use of titles by persons not credentialed under ch. 457, Stats., the bill provides that persons who are not licensed may

not practice clinical social work, marriage and family therapy, or professional counseling. The exceptions provided in current law for use of titles also apply to new practice restrictions in the bill and additional exceptions are created in the bill, as described in item 4. below.

3. The bill retains certification for social workers, advanced practice social workers, and independent social workers but expands the prohibition on use of titles to include “any other title or designation that represents or may tend to represent the person” as one of those three types of certified professionals or one of the three types of licensed professionals described in item 2.

4. The bill expands the exceptions in current law for persons who do not need to be certified in order to use a title to include employee assistance counselors and to specify that the exceptions apply not only to title use, but also to engaging in the types of counseling covered by the exceptions.

In addition, the bill specifies that a credential is not needed under ch. 457, Stats., in order for a person to do any of the following: (a) lawfully practice within the scope of a credential granted by Wisconsin or the federal government, including practicing psychotherapy under such a credential; (b) practice psychotherapy if the person is registered as a music, art, or dance therapist and meets rules promulgated by the Department of Regulation and Licensing (DRL) for the practice of psychotherapy by such a person; (c) practice psychotherapy if the person is a mental health professional who meets all of the qualifications under rules of the Department of Health and Family Services (DHFS) for employment as a mental health professional in an outpatient psychotherapy clinic certified by DHFS and if other conditions are met; or (d) provide a consultation or demonstration with an individual licensed under ch. 457, Stats., if the person providing the consultation or demonstration is licensed to practice marriage and family therapy, professional counseling, or clinical social work in another state or territory of the United States. The DRL rules for music, art, or dance therapists must be comparable to the requirements for obtaining a clinical social worker, marriage and family therapist, or professional counselor license.

5. The bill modifies the provisions in current law related to supervised practice by a person prior to obtaining a credential as a clinical social worker, marriage and family therapist, or professional counselor. Under current law, after receiving a master’s or doctorate degree in social work, a master’s or doctorate degree in marriage or family therapy, or a master’s degree in professional counseling, the person must complete the equivalent of at least two years of full-time supervised clinical practice. The bill modifies this to require 3,000 hours of clinical practice, including at least 1,000 hours of face-to-face client contact, with specified supervision. For a person with a doctorate in professional counseling, current law requires one year of supervised practice; the bill changes this to 1,000 hours.

Under the bill, the supervisor must be an individual with a doctorate degree in the field for which the person is seeking a credential; an individual who has the same credential and who has engaged in the equivalent of five years of full-time practice; a psychiatrist or a psychologist; or an individual who is approved by the appropriate section of the examining board or who satisfies requirements for supervision that are specified in rules promulgated by the examining board upon the advice of the appropriate section.

6. The bill prohibits the examining board from promulgating rules that permit an individual to engage in psychotherapy unless the individual is licensed under ch. 457, Stats., as a clinical social worker, marriage and family therapist, or a professional counselor, or the individual is certified as an advanced practice or independent social worker and engages in psychotherapy only under the

supervision of a clinical social worker. In addition, as noted under item 4. above, certain music, art, or dance therapists may practice psychotherapy and mental health professionals who meet DHFS requirements may practice psychotherapy under certain conditions.

In addition, current ch. 457, Stats., adopts, by cross-reference, the definition of “psychotherapy” that applies to psychologists. The bill creates a new definition of “psychotherapy” that is applicable to social workers, marriage and family therapists, and professional counselors.

7. The bill requires the examining board and the Psychology Examining Board to jointly promulgate rules that specify the different levels of psychometric testing that an individual who is certified or licensed under ch. 457, Stats., is qualified to perform. The rules must be consistent with specified national guidelines.

8. The bill creates a marriage and family therapist training certificate, which is valid for 24 months or until the certificate holder ceases to be employed in a supervised setting specified in the bill.

9. The bill allows a person holding a social worker training certificate to take the national social work examination before or after satisfying education and practice requirements specified in current law. Under current law, the person must take the examination after satisfying the education and training requirements.

10. The bill allows an applicant for one of the following credentials to take an examination before completing the practice requirements--social worker, advanced practice social worker, clinical social worker, marriage and family therapist, or professional counselor.

11. The bill allows the appropriate section of the examining board to grant a temporary certificate or license to an advanced practice social worker, independent social worker, or clinical social worker, who meets the requirements for a regular license except the examination requirement. Current law allows the appropriate section of the examining board to do so only for a social worker, marriage and family therapist, or professional counselor.

12. The bill modifies the requirement in current law that the appropriate section of the examining board grant a credential to a person holding a similar credential in another state or territory if the appropriate section determines that the requirements for obtaining these credentials in the other state or territory are substantially equivalent to the requirements under Wisconsin law. The bill modifies this by requiring that the person also pass an examination approved by the appropriate section of the examining board that tests the knowledge of Wisconsin law relating to the profession. In addition, the bill makes the granting of such a credential discretionary, rather than mandatory, with the appropriate section.

13. The bill modifies the provisions in current law allowing the examining board to promulgate rules relating to continuing education programs for credential renewal. The bill modifies this by requiring the examining board to do so upon the advice of the appropriate section of the examining board.

14. The bill requires a clinical social worker, marriage and family therapist, or professional counselor who treats a person and determines that the person requires additional treatment that is outside his or her scope of practice, to continue to treat the person only if he or she consults with, or refers the person to, a health care practitioner who is authorized to provide the additional treatment.

15. The bill requires a person licensed as a clinical social worker, marriage and family therapist, or professional counselor to have professional liability insurance. The examining board is required to promulgate rules establishing the minimum amount of such insurance.

16. The bill provides that no insurance policy, plan, or contract that covers psychotherapy services may exclude or refuse to provide coverage for psychotherapy services performed by a licensed clinical social worker, marriage and family therapist, or professional counselor, within the scope of his or her professional license, if the policy, plan, or contract includes coverage for psychotherapy services performed by another health care provider.

17. The bill modifies the definition of “outpatient services” in the current statute that requires insurance coverage of treatment of nervous or mental disorders or alcoholism or other drug abuse. Under current law, the definition of “outpatient services” includes services provided by a program in an outpatient treatment facility, a physician who has completed a residency in psychiatry, and a psychologist who is listed in the National Register of Health Services Providers in Psychology or who is certified by the American Board of Professional Psychology. The bill amends the definition to include clinical social workers, marriage and family therapists, and professional counselors, licensed under ch. 457, Stats.

Senate Substitute Amendment 1

Senate Substitute Amendment 1 makes the following changes to the bill:

1. The substitute amendment deletes the provisions of the bill that relate to insurance coverage of psychotherapy provided by a clinical social worker, marriage and family therapist, or professional counselor. In addition, the substitute amendment deletes the change to the definition of “outpatient services” in the current law requiring insurance coverage of treatment of nervous mental disorders or alcoholism or other drug abuse.

2. The substitute amendment adds a new provision that states that ch. 457, Stats., does not authorize any person who is certified or licensed under the chapter to treat alcohol or substance dependency or abuse as a specialty unless the person is a substance abuse counselor as defined in DHFS rules, or unless the person satisfies educational and supervised training requirements established in rules promulgated by the examining board. In promulgating those rules, the examining board must consider the requirements for qualifying as a substance abuse counselor under DHFS rules.

3. The substitute amendment modifies the new provision in the bill that states that a credential is not required for a person lawfully practicing within the scope of a credential granted by the state or the federal government. The substitute amendment adds the phrase “or granted through a process recognized by the department of health and family services.”

4. The substitute amendment modifies the provision of the bill relating to practice of psychotherapy by an advanced practice or independent social worker. Under the bill, such a person may engage in psychotherapy only under the supervision of a clinical social worker. Under the substitute amendment, the individual may engage in the practice of psychotherapy only under the supervision of a clinical social worker with a doctorate in social work; a clinical social worker who has engaged in the equivalent of five years of full-time clinical social work; a psychiatrist or psychologist; or a person

approved by the Social Worker Section or who satisfies requirements for supervision that are specified in rules promulgated by the examining board upon the advice of the Social Worker Section.

5. The substitute amendment deletes a change made by the bill that would have allowed an applicant for a clinical social worker license to take an examination before completing the practice requirements.

6. The substitute amendment deletes from the bill the new provision creating a duty of a clinical social worker, marriage and family therapist, or professional counselor to consult or refer.

7. The substitute amendment deletes the language added by the bill “or any other title or designation that represents or may tend to represent the person as a [social worker, advanced practice worker, or independent social worker].”

8. The substitute amendment repeals the provisions in current law that allow imposition of a forfeiture, fine, or imprisonment for persons who violate ch. 457, Stats., or rules promulgated under that chapter.

9. The substitute amendment modifies the provision in the bill that requires professional liability insurance for a person licensed as a clinical social worker, marriage and family therapist, or professional counselor. Under the substitute amendment, the requirement would not apply to a person practicing any of these professions as an employee of a federal, state, or local governmental agency, if the practice is part of the duties for which the person is employed and is solely within the confines of or under the jurisdiction of the agency by which the person is employed.

Senate Amendment 1 to Senate Substitute Amendment 1

Senate Amendment 1 to Senate Substitute Amendment 1 makes the following changes to the substitute amendment:

1. The amendment provides that the biennial fee for registered music, art, or dance therapists with a psychotherapy license is \$53 (rather than the \$56 under the substitute amendment).

2. The amendment corrects a typographical error on page 13 of the substitute amendment.

3. The amendment modifies the nonstatutory provision in the substitute amendment that states that notwithstanding the provisions that rename the examining board, current members may continue to serve until the end of their appointed terms, except for a member whose appointed term expires on or before January 1, 2002. The amendment deletes the phrase “except for a member whose appointed term expires on or before January 1, 2002.”

Legislative History

On September 12, 2001, the Senate Committee on Human Services and Aging recommended adoption of Senate Substitute Amendment 1 on a vote of Ayes, 5; Noes, 1; and recommended passage of the bill, as amended, on a vote of Ayes, 5; Noes, 1.

On November 5, 2001, the Joint Committee on Finance recommended adoption of Senate Amendment 1 to Senate Substitute Amendment 1; adoption of Senate Substitute Amendment 1; and passage of the bill, as amended; all on votes of Ayes, 16; Noes, 0.

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